THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.3067 OF 2002

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BETWEEN

V.Jagan Mohan Rao son of V.Rajagopalam

..petitioner

vs.

The Govt. of A.P. rep. By its Secretary, Industries and Commerce Department, Secretariat, Hyderabad and five others.

..Respondents

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ORAL ORDER

The petitioner seeks a direction that the inaction of the 4th respondent (Vice-Chairman and Managing Director, A.P.Industrial Development Corporation Ltd.,) in absorbing the petitioner into service on par with one Smt.P.Vijayalakshmi and Smt.L.Seetharavamma in the A.P.Handicrafts Development Corporation Ltd., is

illegal and arbitrary. The relief as sought by the petitioner is misconceived and is also barred by the principles of *res judicata.*

The petitioner was initially an employee in A.P.Steels Limited. The said company was wound up by the orders of the Company Court dated 10-04-1996. Earlier while the petitioner was working substantively in the A.P.Steels Limited, he was deputed to the A.P.Handicrafts Development Corporation Ltd., during June 1994, initially for one(1) year. While he was on deputation with the A.P.Handicrafts Development Corporation Limited, A.P.Steels Limited by a letter dated 19-09-1994 informed the petitioner that he is at liberty to avail the Voluntary Retirement Scheme benefits. Expecting absorption into the A.P.Handicrafts Development Corporation Limited, the petitioner requested the A.P.Steels Limited to keep the Voluntary Retirement Scheme benefits option open and in abeyance. As the period of petitioner's deputation with A.P. Handicrafts Development Corporation Limited was coming to an end by 21-06-1995, he filed W.P.No.12434 of 1995 for a declaration that the action of the 3rd respondent in not absorbing him into services of A.P. Handicrafts Development Corporation Limited, is illegal and for a consequential direction. The said writ petition was disposed by the judgment of this Court dated 16-02-1996. This court noted that the petitioner's representation alternatively for posting into Government service (on abolition of A.P.Steels Limited and refusal of absorption by the A.P.Handicrafts Development Corporation Limited) was refused by the State Government. This Court further noted that the petitioner was willing to accept payment of compensation by the A.P.Steels Limited (Voluntary Retirement Scheme benefits). Accordingly W.P.No.12434 of 1993 was disposed of directing the respondent Nos.3,5 and 7 therein to arrange payment of compensation under the Voluntary Retirement Scheme to the petitioner as extended in respect of other employees.

After the judgment in W.P.No.12434 of 1993, the A.P. Steels Limited was wound up by the order of the Company Court dated 10-04-1996. On the order of the winding up, the Management and the disbursal of the assets of the winding up Company-A.P.Steels Limited was to be regulated by the Company Court in accordance with the provisions of the Companies Act,1956. It appears the petitioner's claim for Voluntary Retirement Scheme benefits was rejected by the Official Liquidator by the order dated 19-09-2001. In the circumstances the petitioner has filed this writ petition again seeking absorption into the service of the

A.P.Handicrafts Development Corporation Limited. As the petitioner had already opted out of his initial claim for absorption into the A.P.Handicrafts Development Corporation Limited and in favour of the Voluntary Retirement Scheme benefits from the A.P.Steels Limited and as such option of the petitioner has been recorded in the judgment in W.P.No.12434 of 1993, the petitioner cannot again be heard to fall back on the given up option to claim absorption into service of the A.P.Handicrafts Development Corporation Limited. It is unfortunate that the A.P. Steels Limited had fallen into financial distress and had been wound up by the orders of the Company Court subsequent to the judgment in W.P.No.12434 of 1993 and the petitioner's claim for Voluntary Retirement Scheme benefits also could not fructify but that is a consequence of the choices made by the petitioner.

The relief sought herein in specie namely a direction for absorption into service of the A.P.Handicrafts Development Corporation Ltd, cannot however be granted in view of the petitioner's conduct in having opted out of this choice as recorded in the judgment in W.P.No.12434 of 1993.

On the analysis above, there are no merits. The writ petition is accordingly dismissed. No order as to costs.

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GODA RAGHURAM,J

31st JANUARY 2006

*TSNR